

Article - Family Law

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§12–201. IN EFFECT

(a) In this subtitle the following words have the meanings indicated.

(b) (1) “Actual income” means income from any source.

(2) For income from self–employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, “actual income” means gross receipts minus ordinary and necessary expenses required to produce income.

(3) “Actual income” includes:

- (i) salaries;
- (ii) wages;
- (iii) commissions;
- (iv) bonuses;
- (v) dividend income;
- (vi) pension income;
- (vii) interest income;
- (viii) trust income;
- (ix) annuity income;
- (x) Social Security benefits;
- (xi) workers’ compensation benefits;
- (xii) unemployment insurance benefits;
- (xiii) disability insurance benefits;

(xiv) for the obligor, any third party payment paid to or for a minor child as a result of the obligor's disability, retirement, or other compensable claim;

(xv) alimony or maintenance received; and

(xvi) expense reimbursements or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business to the extent the reimbursements or payments reduce the parent's personal living expenses.

(4) Based on the circumstances of the case, the court may consider the following items as actual income:

(i) severance pay;

(ii) capital gains;

(iii) gifts; or

(iv) prizes.

(5) "Actual income" does not include benefits received from means-tested public assistance programs, including temporary cash assistance, Supplemental Security Income, food stamps, and transitional emergency, medical, and housing assistance.

(c) "Adjusted actual income" means actual income minus:

(1) preexisting reasonable child support obligations actually paid;
and

(2) except as provided in § 12-204(a)(2) of this subtitle, alimony or maintenance obligations actually paid.

(d) "Adjusted basic child support obligation" means an adjustment of the basic child support obligation for shared physical custody.

(e) "Basic child support obligation" means the base amount due for child support based on the combined adjusted actual incomes of both parents.

(f) "Combined adjusted actual income" means the combined monthly adjusted actual incomes of both parents.

(g) (1) “Extraordinary medical expenses” means uninsured costs for medical treatment in excess of \$250 in any calendar year.

(2) “Extraordinary medical expenses” includes uninsured, reasonable, and necessary costs for orthodontia, dental treatment, vision care, asthma treatment, physical therapy, treatment for any chronic health problem, and professional counseling or psychiatric therapy for diagnosed mental disorders.

(h) “Health insurance” includes medical insurance, dental insurance, prescription drug coverage, and vision insurance.

(i) “Income” means:

(1) actual income of a parent, if the parent is employed to full capacity; or

(2) potential income of a parent, if the parent is voluntarily impoverished.

(j) “Obligee” means any person who is entitled to receive child support.

(k) “Obligor” means an individual who is required to pay child support under a court order.

(l) “Ordinary and necessary expenses” does not include amounts allowable by the Internal Revenue Service for the accelerated component of depreciation expenses or investment tax credits or any other business expenses determined by the court to be inappropriate for determining actual income for purposes of calculating child support.

(m) “Potential income” means income attributed to a parent determined by the parent’s employment potential and probable earnings level based on, but not limited to, recent work history, occupational qualifications, prevailing job opportunities, and earnings levels in the community.

(n) (1) “Shared physical custody” means that each parent keeps the child or children overnight for more than 25% of the year and that both parents contribute to the expenses of the child or children in addition to the payment of child support.

(2) Subject to paragraph (1) of this subsection, the court may base a child support award on shared physical custody:

(i) solely on the amount of visitation awarded; and

(ii) regardless of whether joint custody has been granted.

(o) “Shared physical custody adjustment” means the adjustment made to a theoretical adjusted basic child support obligation in a shared physical custody case when a parent keeps the child or children overnight for more than 25% (at least 92 overnights), but less than 30% (not more than 109 overnights), of the year.

§12–201. ** TAKES EFFECT JULY 1, 2022 PER CHAPTER 305 OF 2021 **

(a) In this subtitle the following words have the meanings indicated.

(b) (1) “Actual income” means income from any source.

(2) For income from self–employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, “actual income” means gross receipts minus ordinary and necessary expenses required to produce income.

(3) “Actual income” includes:

- (i) salaries;
- (ii) wages;
- (iii) commissions;
- (iv) bonuses;
- (v) dividend income;
- (vi) pension income;
- (vii) interest income;
- (viii) trust income;
- (ix) annuity income;
- (x) Social Security benefits;
- (xi) workers’ compensation benefits;
- (xii) unemployment insurance benefits;

(xiii) disability insurance benefits;

(xiv) for the obligor, any third party payment paid to or for a minor child as a result of the obligor's disability, retirement, or other compensable claim;

(xv) alimony or maintenance received; and

(xvi) expense reimbursements or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business to the extent the reimbursements or payments reduce the parent's personal living expenses.

(4) Based on the circumstances of the case, the court may consider the following items as actual income:

(i) severance pay;

(ii) capital gains;

(iii) gifts; or

(iv) prizes.

(5) "Actual income" does not include benefits received from means-tested public assistance programs, including temporary cash assistance, Supplemental Security Income, food stamps, and transitional emergency, medical, and housing assistance.

(c) "Adjusted actual income" means actual income minus:

(1) preexisting reasonable child support obligations actually paid;
and

(2) except as provided in § 12-204(a)(2) of this subtitle, alimony or maintenance obligations actually paid.

(d) "Adjusted basic child support obligation" means an adjustment of the basic child support obligation for shared physical custody.

(e) "Basic child support obligation" means the base amount due for child support calculated using the combined adjusted actual incomes of both parents as adjusted by the self-support reserve.

(f) “Combined adjusted actual income” means the combined monthly adjusted actual incomes of both parents.

(g) (1) “Extraordinary medical expenses” means uninsured costs for medical treatment in excess of \$250 in any calendar year.

(2) “Extraordinary medical expenses” includes uninsured, reasonable, and necessary costs for orthodontia, dental treatment, vision care, asthma treatment, physical therapy, treatment for any chronic health problem, and professional counseling or psychiatric therapy for diagnosed mental disorders.

(h) “Health insurance” includes medical insurance, dental insurance, prescription drug coverage, and vision insurance.

(i) “Income” means:

(1) actual income of a parent, if the parent is employed to full capacity; or

(2) potential income of a parent, if the parent is voluntarily impoverished.

(j) “Obligee” means any person who is entitled to receive child support.

(k) “Obligor” means an individual who is required to pay child support under a court order.

(l) “Ordinary and necessary expenses” does not include amounts allowable by the Internal Revenue Service for the accelerated component of depreciation expenses or investment tax credits or any other business expenses determined by the court to be inappropriate for determining actual income for purposes of calculating child support.

(m) “Potential income” means income attributed to a parent determined by:

(1) the parent’s employment potential and probable earnings level based on, but not limited to:

(i) the parent’s:

1. age;

2. physical and behavioral condition;

3. educational attainment;
4. special training or skills;
5. literacy;
6. residence;
7. occupational qualifications and job skills;
8. employment and earnings history;
9. record of efforts to obtain and retain employment;
10. criminal record and other employment barriers; and

and

(ii) employment opportunities in the community where the parent lives, including:

1. the status of the job market;
2. prevailing earnings levels; and
3. the availability of employers willing to hire the

parent;

(2) the parent's assets;

(3) the parent's actual income from all sources; and

(4) any other factor bearing on the parent's ability to obtain funds for child support.

(n) "Self-support reserve" means the adjustment to a basic child support obligation ensuring that a child support obligor maintains a minimum amount of monthly income, after payment of child support, federal and state income taxes, and Federal Insurance Contribution Act taxes, of at least 110% of the 2019 federal poverty level for an individual.

(o) (1) "Shared physical custody" means that each parent keeps the child or children overnight for more than 25% of the year and that both parents contribute to the expenses of the child or children in addition to the payment of child support.

(2) Subject to paragraph (1) of this subsection, the court may base a child support award on shared physical custody:

- (i) solely on the amount of visitation awarded; and
- (ii) regardless of whether joint custody has been granted.

(p) “Shared physical custody adjustment” means the adjustment made to a theoretical adjusted basic child support obligation in a shared physical custody case when a parent keeps the child or children overnight for more than 25% (at least 92 overnights), but less than 30% (not more than 109 overnights), of the year.

(q) “Voluntarily impoverished” means that a parent has made the free and conscious choice, not compelled by factors beyond the parent’s control, to render the parent without adequate resources.

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